

## LICENSING COMMITTEE

Minutes of a meeting of the Licensing Committee held in the Council Chamber, County Hall, Wynnstay Road, Ruthin on Wednesday, 14 March 2012 at 9.30 am.

### PRESENT

Councillors John Bellis, Gwilym Evans, Bobby Feeley, Gwyneth Kensler, David Lee, David Thomas, Selwyn Thomas and Cefyn Williams (Chair)

**Observers:** Councillors Meirick Davies and Sharon Frobisher

### ALSO PRESENT

Principal Solicitor (AL), Licensing Officers (NJ & JT), Senior Community Safety Enforcement Officer (TWE) and Committee Administrator (KEJ)

#### 1 APOLOGIES

Councillors Brian Blakeley and Ian Gunning.

#### 2 DECLARATION OF INTERESTS

No declarations of personal or prejudicial interest had been raised.

#### 3 URGENT MATTERS AS AGREED BY THE CHAIR

No urgent matters had been raised.

#### 4 MINUTES OF THE LAST MEETING

The minutes of the Licensing Committee held on 7 December 2011 were submitted.

**RESOLVED** that the minutes of the meeting held on 7 December 2011 be received and confirmed as a correct record.

### EXCLUSION OF PRESS AND PUBLIC

**RESOLVED** that under Section 100A of the Local Government Act 1972, the Press and Public be excluded from the meeting for the following item of business on the grounds that it would involve the likely disclosure of exempt information as defined in Paragraphs 12 and 13 of Part 4 of Schedule 12A of the Act.

#### 5 REVIEW OF A LICENCE TO DRIVE HACKNEY CARRIAGE AND PRIVATE HIRE VEHICLES - APPLICANT NO. 038175

[This item was brought forward on the agenda with the consent of the Chair]

A confidential report by the Head of Planning, Regeneration and Regulatory Services (previously circulated) was submitted upon –

- (i) consideration of the suitability of Applicant No. 038175 to hold a licence to drive hackney carriage and private hire vehicles;
- (ii) the Applicant having been convicted of Driving a Motor Vehicle with excess Alcohol on 8 February 2012 and had been disqualified from driving for twelve months (to be reduced by one month should the Applicant complete a course by 7 September 2012);
- (iii) the Applicant having failed to comply with the requirement to notify the council of any criminal or motoring conviction imposed within seven days;
- (iv) the removal of the DVLA Licence rendered the Applicant unable to carry out his duties as a Licensed Driver, and
- (v) his recommendation that the Applicant's licence to drive hackney carriage and private hire vehicles be revoked with immediate effect.

The Licensing Officer (JT) provided a summary of the report and advised that the Applicant was in attendance at the meeting. At the Chair's invitation, the Applicant addressed the committee and explained the delay in surrendering his hackney carriage/private hire vehicle drivers licence and badge due to difficult family circumstances and on account of him moving home. The Applicant responded to members' questions regarding the circumstances of the case and confirmed that he had not been driving a licensed vehicle at the time the offence took place.

At this juncture the committee adjourned to consider the case and it was –

***RESOLVED*** that the hackney carriage/private hire vehicle drivers licence be revoked.

The reasons for the Licensing Committee's decision were as follows –

Members revoked the licence as the removal of the Applicant's DVLA Licence rendered him unable to carry out his duties as a licensed driver. The Chair conveyed the committee's decision and reasons for the decision to Applicant. He also advised that the Applicant could reapply for a licence following his period of disqualification.

## **OPEN SESSION**

Upon completion of the above the meeting resumed in open session.

### **6 REVIEW OF FEES AND CHARGES 2012/13**

The Licensing Officer (NJ) submitted a report by the Head of Planning, Regeneration and Regulatory Services (previously circulated) seeking members' approval for a review of the licensing fees and charges for the issuing and renewal of licences and other service provisions for the year 2012/13.

The Licensing Officer indicated that –

- the authority could charge a fee for the issuing or renewal of various licences for which they had a statutory duty to administer and enforce;
- certain fees were either set by Statute or Regulations but some fees could be set by local authorities to cover the cost of administration and enforcement
- the Licensing Committee held on 15 March 2011 had resolved not to increase fees for the coming financial year pending a full review of the current fee structure by officers
- due to unforeseen circumstances a full review of the current fee structure had not been completed, and
- it was recommended that the current fee structure for 2012/13 be retained and a full review of fees and charges be undertaken by the Head of Service.

Members were also advised that a letter had been received from Denbighshire Licensed Taxi Trade Association (circulated at the meeting) requesting a reduction in the hackney carriage and private hire licensing fees for 2012/13.

During consideration of the report members expressed serious concerns that the review of the fee structure as requested by the Licensing Committee in March 2011 had not been undertaken and that members were unable to make a fully informed decision on the fees and charges because of the lack of detail within the report. In response to members' questions the Licensing Officer advised that she was not in a position to explain why the review had not been undertaken which would be the responsibility of the budget holder. However, the Head of Planning, Regeneration and Regulatory Services had given an undertaking that a full review would be carried out. In considering the way forward members expressed reservations in agreeing to the officer's recommendation to retain the current fee structure for the next twelve months without evidence of the service's operating costs and highlighted the need for a review to be undertaken in time for the next budget setting round in October. After further discussion it was –

**RESOLVED** that –

- members' concerns that a full review of the current fee structure had not been undertaken be raised with the Head of Planning, Regeneration and Regulatory Services;*
- in the absence of a review the current fee structure be retained for an initial six month period pending a full review being undertaken as soon as possible within the next six months, and*
- the findings of the review be submitted to the Licensing Committee in September 2012 for consideration.*

## **7 APPLICATION FOR RENEWAL OF A SEX ESTABLISHMENT LICENCE**

The Licensing Officer (JT) submitted a report by the Head of Planning, Regeneration and Regulatory Services (previously circulated) advising that an application had been received from Adult World in respect of premises situated at

43 – 47 Queen Street, Rhyl. She indicated that the North Wales Police had raised no objection to the application and following public notice no objections had been received from members of the public.

Councillor David Lee referred to previous applications for renewal which had been discussed at length by the committee and advised that the business was well run. He also indicated his preference for the term 'Adult Shop' as opposed to 'Sex Establishment'.

**RESOLVED** that the application for renewal of a Sex Establishment Licence held in respect of premises at 43 – 47 Queen Street, Rhyl be granted with the option of paying the renewal fee in installments.

## **8 HYPNOTISM ACT 1952 - STANDARD CONDITIONS FOR CONSENTS FOR AN EXHIBITION, DEMONSTRATION OR PERFORMANCE OF HYPNOTISM**

The Licensing Officer (NJ) submitted a report by the Head of Planning, Regeneration and Regulatory Services (previously circulated) upon –

- (i) approval being sought for standard conditions to be attached to consents under the Hypnotism Act 1952 (Appendix to the report referred), and
- (ii) a delegation of powers to officers to deal with applications for Hypnotism and any subsequent appeal against refusal of consent.

Members were advised of the proposed application and appeals process as detailed within the report and of the need to adopt standard conditions for consents for Hypnotism to strike a balance between legitimate concerns for public safety and the ability for hypnotists to trade. As applications and appeals needed to be heard relatively quickly it was recommended that powers to consider such applications and any appeal against refusal be delegated to officers.

Councillor Selwyn Thomas sought assurances that appropriate safeguards were in place to ensure that those subject to hypnosis suffered no ill effects following the performance. The Licensing Officer drew members' attention to the proposed conditions to be attached to consents to address such concerns, specifically condition (m) to ensure that all hypnotic or post hypnotic suggestions were completely removed from the minds of the subjects and the audience before the end of the performance. The conditions would allow for greater control over such performances. Whilst accepting that applications for hypnotism could be dealt with by officers some reservations were expressed regarding the proposed appeal process and the committee felt that they would be best placed to consider any subsequent appeal against refusal of consent. Following further consideration of the report it was –

**RESOLVED** that –

- (a) the standard conditions set out in the Appendix attached to the report together with the application process as detailed within the conditions be approved with immediate effect;

(b) *officers be granted delegated authority to deal with applications for consent under the Hypnotism Act 1952 with any delegated decisions circulated to the committee for information, and*

(c) *any appeal against refusal of consent by officers be dealt with by the Licensing Committee.*

**9 HYPNOTISM ACT 1952 - APPLICATION FOR A PERFORMANCE OF HYPNOTISM - APOLLO CINEMA, RHYL**

Officers had been granted delegated authority to deal with this application under the previous item.

**10 LICENSING COMMITTEE FORWARD WORK PROGRAMME 2012/13**

A report by the Head of Planning, Regeneration and Regulatory Services was submitted (previously circulated) regarding the priorities of the Licensing Section and a Work Programme for the Licensing Committee for the year 2012/13.

During consideration of the Licensing Committee's future work programme Councillor Gwyneth Kensler highlighted a number of important issues arising from the recent training session for members on taxi licensing together with the importance of appropriate training for new members on the committee. The Licensing Officer (NJ) confirmed that training had been highlighted as an issue and was being addressed through the members' development and training programme following the forthcoming elections. Members had agreed earlier in the meeting to receive a report back on the review of fees and charges which needed to be programmed for September 2012. Councillor David Thomas also requested that the dress code for drivers be included within the Driver Standards Review scheduled for December 2012.

***RESOLVED*** *that, subject to the above, the Forward Work Programme for the Licensing Committee and priorities for the Licensing Section for 2012/13 as detailed within the report be approved.*

At this juncture members referred to confusion surrounding the future collaboration arrangements of the Licensing Section together with associated staffing matters. It was felt that the committee should be kept informed of the situation and future developments. Councillor Sharon Frobisher referred to an e-mail from the Head of Planning, Regeneration and Regulatory Services regarding staffing matters within the short term which she agreed to share with the committee. She also confirmed that she would seek clarification for members on the current position in terms of collaboration of the service. The Senior Community Safety Enforcement Officer also agreed to raise the issue with the Head of Service. Councillor Gwyneth Kensler paid tribute to the work of the officers during difficult circumstances.

**EXCLUSION OF PRESS AND PUBLIC**

***RESOLVED*** *that under Section 100A of the Local Government Act 1972, the Press and*

*Public be excluded from the meeting for the following item of business on the grounds that it would involve the likely disclosure of exempt information as defined in Paragraphs 12 and 13 of Part 4 of Schedule 12A of the Act.*

**11 REVIEW OF A LICENCE TO DRIVE HACKNEY CARRIAGE AND PRIVATE HIRE VEHICLES - APPLICANT NO. 036478**

A confidential report by the Head of Planning, Regeneration and Regulatory Services (previously circulated) was submitted upon –

- (i) consideration of the suitability of Applicant No. 036478 to hold a licence to drive hackney carriage and private hire vehicles;
- (ii) the Applicant having been issued with a caution for Assault Occasioning Actual Bodily Harm;
- (iii) the Applicant's hackney carriage and private hire vehicle drivers licence having subsequently been suspended pending members' consideration of the case, and
- (iv) the applicant having been invited to attend the meeting in support of his licence review and to answer members' questions thereon.

The Licensing Officer (JT) provided a summary of the report and advised that the Applicant was not present at the meeting. She also advised that the matter had been deferred to this meeting at the Applicant's request as he had been out of the country during the time the last committee meeting had been held. In the absence of the Applicant, the Licensing Officer provided details of the incident and confirmed that the Applicant had fully co-operated with officers throughout the process.

Members considered the circumstances of the case it was –

***RESOLVED*** that the suspension of the hackney carriage/private hire vehicle drivers licence be lifted and a warning be issued as to future conduct.

The reasons for the Licensing Committee's decision were as follows –

Members considered the incident to be relatively minor and domestic in nature and therefore deemed the Applicant to be a fit and proper person to hold a licence but felt that a warning should be issued as to future conduct.

**12 REVIEW OF A LICENCE TO DRIVE HACKNEY CARRIAGE AND PRIVATE HIRE VEHICLES - APPLICANT NO. 041088**

A confidential report by the Head of Planning, Regeneration and Regulatory Services (previously circulated) was submitted upon –

- (i) consideration of the suitability of Applicant No. 041088 to hold a licence to drive hackney carriage and private hire vehicles;

- (ii) the Applicant having been subject to a complaint regarding the proxy sale of alcohol to a person under the age of 18 culminating in a Penalty Notice being issued to the Applicant by North Wales Police;
- (iii) full details of the investigation together with a summary of facts and statements taken had been attached to the main report, and
- (iv) the Applicant having been invited to attend the meeting in support of his licence review and to answer members' questions thereon.

The Principal Solicitor read out a letter which had been received from the Applicant advising that he was unavailable to attend the meeting due to a prior engagement. The Applicant had apologised for the inconvenience and requested details of the next opportunity he could attend before the committee. Following consideration of the Applicant's letter it was –

**RESOLVED** that the review of the hackney carriage/private hire vehicle drivers licence be deferred to the committee's next meeting.

**13 REVIEW OF A LICENCE TO DRIVE HACKNEY CARRIAGE AND PRIVATE HIRE VEHICLES - APPLICANT NO. 041376**

A confidential report by the Head of Planning, Regeneration and Regulatory Services (previously circulated) was submitted upon –

- (i) consideration of the suitability of Applicant No. 041376 to hold a licence to drive hackney carriage and private hire vehicles;
- (ii) a complaint having been made regarding the failure of the Applicant to attend a pre arranged booking (full details of the subsequent investigation together with a summary of facts and statements taken had been attached to the main report);
- (iii) the Applicant's hackney carriage and private hire vehicle drivers licence having subsequently been suspended pending members' consideration of the case, and
- (iv) the Applicant having been invited to attend the meeting in support of her licence review and to answer members' questions thereon.

The Senior Community Safety Enforcement Officer introduced the report and detailed the summary of facts. He advised that the Applicant had indicated that he would not be attending today's hearing. Members were also advised that the complainant was not present despite previously indicating her intention to attend.

Members considered the circumstances of the complaint and it was –

**RESOLVED** that the suspension of the hackney carriage and private hire vehicle driver's licence be continued for a period of one month and a warning be issued as to future conduct.

The reasons for the Licensing Committee's decision were as follows –

Members considered the Applicant's behaviour to be unacceptable at the time as he could have made alternative arrangements for the complainant. The Applicant himself admitted that he should have kept the appointment.

**14 REVIEW OF A LICENCE TO DRIVE HACKNEY CARRIAGE AND PRIVATE HIRE VEHICLES - APPLICANT NO. 039739**

A confidential report by the Head of Planning, Regeneration and Regulatory Services (previously circulated) was submitted upon –

- (i) consideration of the suitability of Applicant No. 039739 to hold a licence to drive private hire vehicles;
- (ii) a number of complaints having been made regarding inappropriate behaviour by the Applicant whilst undertaking his duties as a licensed driver (full details of the subsequent investigation together with a summary of facts and statements having been attached to the main report);
- (iii) the Applicant's hackney carriage/private hire vehicle drivers licence having subsequently been suspended, and
- (iv) the Applicant having been invited to attend the meeting in support of his licence review and to answer members' questions thereon.

The Senior Community Safety Enforcement Officer (SCSEO) introduced the report and detailed the summary of facts. He advised that the Applicant had indicated that he would not be attending today's hearing. Members took the opportunity to question the SCSEO on the facts of the case and the Applicant's refusal to be interviewed. It was confirmed that there was no link between the complainants.

Having considered the circumstances of the case it was –

***RESOLVED*** that the hackney carriage/private hire vehicle drivers licence be revoked in the interests of public safety on the basis that Applicant No. 039739 was not a fit and proper person to hold such a licence.

The reasons for the Licensing Committee's decision were as follows –

Taking into account all of the evidence members considered that the driver was not a fit and proper person to drive a licensed vehicle. It was clear from the evidence presented that the driver did not understand what was considered acceptable behaviour and what was unacceptable. Following three separate complaints and a positive identification of the Applicant the committee found that on the balance of probability the Applicant's licence should be revoked on the grounds of public safety. The public was reliant on taxi drivers to be trustworthy and honest and to provide a safe environment in which to carry children and families. The Applicant's behaviour had breached that trust.

Prior to the close of the meeting members acknowledged they were attending the last meeting of the Licensing Committee in the current administration. The Chair thanked the officers for their help and support over the current term of office. Councillor Selwyn Thomas advised that he had enjoyed attending meetings of the Licensing Committee and paid tribute to the chairing skills of Councillor Cefyn Williams and the way he dealt sensitively with the business being transacted.

The meeting concluded at 11.00 a.m.